Statement of

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before
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Mr. Chairman, I welcome the opportunity to testify today on H.R. 12004, introduced by you and others, to replace with a statutory classification system the existing system established by Executive Order 11652, and to discuss the operations of this Executive Order within the Central Intelligence Agency.

Mr. Chairman, at the outset I want you to know that while we in the intelligence profession do have some special security needs, we fully recognize that the bedrock of our system of government is an open society and an informed public.

In a report issued last year your committee stated that "... there is an unquestioned need for Federal agencies to avoid the release or dissemination to the public of certain sensitive types of information, the safeguarding of which is truly vital to protecting the national defense and to maintain necessary confidentiality of dealings between our country and foreign nations." The necessity to safeguard certain truly vital foreign intelligence secrets has been recognized by the Congress in its direction to the Director of Central Intelligence in the National Security Act of 1947 to protect intelligence sources and methods from unauthorized disclosure.

There are special problems involved in protecting intelligence sources and methods which I believe bear directly upon H.R. 12004 and Executive Order 11652. These problems flow from the very nature of intelligence information - its substance and the means by which it is obtained.

Substantive information includes such things as the flight characteristics of a fighter plane, the accuracy and numbers of a ballistic missile, or the plans and capabilities of a foreign country in the economic or political fields. Revelation of our knowledge in these areas could be of significant assistance to potential adversaries to the detriment of our nation and on that basis is deserving of protection as affecting our nation's vital interests.

But inherent in the substantive information itself are clues to the means through which it was obtained - intelligence sources and methods. Unless these means are protected countermeasures can be mounted to nullify or impair collection efforts. It was this concern, I believe, which led to the statutory directive that the Director of Central Intelligence is responsible for protecting intelligence sources and methods from unauthorized disclosure.

-- Clearly a secret agent operating abroad in a hostile climate must be protected -- not only to enable him to continue to supply intelligence, but also because the freedom and lives of individuals may be at stake. The exposure of an agent obviously ends his immediate usefulness. It may or may not expose his sub-agents and any networks for collecting information he may have established. Finally it may affect our ability to obtain assistance from others. Credibility in protecting our sources is the sine qua non of the intelligence profession.

-- Foreign intelligence services and security agencies are also positive contributors to our intelligence and counter-intelligence programs abroad and continued cooperation often depends upon confidence that the mere fact of the existence of the relationship will be protected.

-- Revelation of methods of technical intelligence collection may result in countermeasures to mislead or obstruct methods of collection and render ineffective costly programs.

-- While a particular piece of intelligence information by itself may not be revealing of sensitive sources and methods, accumulation of bits of intelligence information may well eventually lead back to the sources or methods relied upon for the collection.

In view of these considerations I believe Congress acted wisely when in the 1947 National Security Act it identified a focal point to assume the responsibility to protect against the unauthorized disclosure of sensitive intelligence sources and methods.

Recently I testified before the Intelligence Subcommittee of the House Armed Services Committee on H.R. 15845, which amends the charter of the Central Intelligence Agency in the National Security Act of 1947. One amendment in that bill would reinforce the charge in the original Act by requiring the Director to develop appropriate plans, policies and regulations for the protection of intelligence sources and methods.

Mr. Chairman, I believe that there are ways to ameliorate the seemingly inherent conflict between the needs of an open society for information and the requirements of an agency engaged in the collection and protection of intelligence derived from sources and methods which must be protected. Essentially, the Central Intelligence Agency is not a public information agency, but was established to provide policy making officials with information for use in making judgments and policy decisions about developments abroad affecting the United States. With due recognition of this primary statutory function, Agency information is made available as widely as possible in a number of ways:

-- Where possible the Agency identifies for public release information resulting from its efforts. A recent example was the publication of testimony on the economics of the Soviet

Union and China provided to the Joint Economic Committee and published on July 19th after appropriate screening to protect intelligence sources and methods.

-- The Agency briefs appropriate committees of the Congress - the Foreign Affairs and Foreign Relations Committees, the Military Affairs Committees and the Joint Committee on Atomic Energy - in executive session in order to provide the fruits of our nation's intelligence investment. This contributes to making intelligence information of maximum service to the nation as a whole by assisting those in Congress who share the American decision-making process. To the extent possible, information provided in executive session is later cleared for publication. We also fully brief the CIA oversight subcommittees of the Military Affairs and Appropriations Committees on budget and operational matters.

-- We are completing a review of nearly 1,000 cubic feet of classified OSS records in the custody of the Archivist and over 90 percent of them are being declassified. Moreover, we have reviewed and declassified nearly 250 OSS films.

-- The Agency responds affirmatively whenever possible to requests for information under the Freedom of Information Act and Executive Order 11652.

-- A number of regular and occasional documents are made available through the Library of Congress, the Government Printing Office and the Department of Commerce. An example is the China Atlas published in 1972.

In our efforts to make information available to the public we must depend upon the training, background, and experience of the professional intelligence officers who on the basis of access to all information and the sources and methods used in intelligence collection, are truly qualified to determine which information requires continued protection to avoid inadvertent disclosure of sensitive intelligence sources and methods.

With this background on the responsibilities and interest of the CIA with respect to classified information, I would now like to address myself to the provisions of H.R. 12004.

Very simply, H.R. 12004 would conflict severely with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods information. Under the bill all SECRET and CONFIDENTIAL information must be declassified in two and one years, respectively. A great deal of important sources and method information does not also meet the standard, under the language of the bill, to be classified at higher than SECRET. All such information thus would be declassified in no more than two years. I would find it very difficult, in good conscience and in terms of practicality, to urge a foreign intelligence service or a strategically placed individual in a foreign government or a foreign country to cooperate with this Agency and to provide information in confidence if the law of this country requires that such information be made available to the public two years later.

All TOP SECRET information declassifies under the bill in three years, unless it falls within one of several categories, one of which is information which would disclose intelligence sources and methods. But even this information could be declassified by the Classification Review Commission which the bill would establish. Moreover, the Commission could do so in the face of and notwithstanding a written detailed justification by the President himself "for the continued safeguarding of such information based upon national defense interests of the United States of the highest importance." This would seem to raise Constitutional questions and it surely would impair my ability to protect intelligence sources and methods.

In my written comments to Chairman Holifield I suggested certain additional modifications. Under the bill information may be classified in the interest of "national defense", as contrasted with "national defense or foreign relations of the United States" as now provided by the Executive Order. I believe it important that the bill be in terms which make it clear that the information which may be protected is not limited to strictly defense information.

The bill requires that the identity of the classifier must appear on each classified document, and the names and addresses of all persons authorized to classify must be furnished quarterly to the Classification Review Commission and, upon request, to any member of Congress or the Comptroller General. This feature would hamper severely the operation of the intelligence gathering function of this Agency, since it would

serve to identify many employees whose duties and prospective duties require that their status as employees of CIA not be revealed. It would also serve to negate the provision of the Central Intelligence Agency Act of 1949 which exempts the Agency from the provisions of any law which require publication or disclosure of certain information concerning Agency personnel.

My final point with respect to H.R. 12004 concerns the impact its enactment would have on the authority departments would retain to withhold information based on one of the exemptions of the Freedom of Information Act. Exemption 1 permits withholding of information classified pursuant to executive order. Exemption 3 permits withholding of information which is "specifically exempted from disclosure by statute." If enactment of H.R. 12004 results in the rescission of Executive Order 11652, as I assume it would, the protection of exemption 1 would be gone. And it might be contended that classification actions made under H.R. 12004 and the regulations of the Classification Review Committee are made "pursuant to" rather than "by" statute and therefore are not to be withheld under exemption 3. If this contention is sound it would mean that classified information requested under the Freedom of Information Act could not be withheld. I would urge revision to clarify this matter.

It is generally accepted that some information must be kept secret. It is also generally accepted that some sort of a classification system is necessary for this purpose. The question is whether the classification system should be one established by the executive branch or by the Congress,

or, perhaps, by some combination of the two. My own judgment is that the legal basis on which it rests is not the primary consideration. The important factor is its workability and for this, flexibility is essential. For example, we have noted in our comments to Chairman Holifield the obstructions inherent in a statutory system where only certain specified departments may classify and it later develops that authority is needed for other departments.

I turn now to the operation of Executive Order 11652 within the Central Intelligence Agency. That Order, and H.R. 12004 as well, obviously represent an effort to get a handle on the problem of too much classification and for too long. I know of no responsible opinion that there is no problem in this area. Executive Order 11652, the first major change in classification practices in nearly 20 years, is an attempt to make a turn-around in the government's classification practices which date back to World War II and to deal with the untold volumes of documents which remain classified. This is a major undertaking. It will require time and much work.

In CIA we are faced with a steady stream of new problems -- matters which must be studied under the mandate of the Executive Order, the Director's statutory responsibility to protect intelligence sources and methods, and other statutes, and in the light of the need to establish rational priorities of business and realistic allocation of resources -- both manpower and money. We are working out solutions and, with experience, we are improving our procedures, but it is clear

that continuing effort is required and we undoubtedly will have to re-examine our practices as we progress. I therefore believe it is too early to conclude that the formula established by the Executive Order is the right one or indeed the best one. In fact, I am concerned with the apparent contradiction between the secrecy which the operation of an intelligence organization requires and the mandatory and automatic declassification features of the Executive Order. It may be that the Executive Order and the implementing National Security Council Directive will prove unsatisfactory in the field of intelligence and if this happens, we of course will not hesitate to recommend revision.

A brief description of some of the specifics of CIA implementation might be useful to the Committee.

One of the major requirements under the Executive Order and one which has attracted some interest, is the establishment of a data index system. The implementing NSC Directive calls for such a system for classified information in categories approved by the Interagency Classification Review Committee "as having sufficient historical or other value appropriate for preservation." Happily the CIA was in a relatively good position when this requirement was established. For some time we have had a sophisticated, computerized data index system, improved and refined through the years, by which we have indexed, among other documents, finished intelligence reports. Such reports have been approved by the Interagency Classification Review Committee as a category of information appropriate for preservation. We have had to make only a few relatively minor adjustments in our system to completely conform to the requirement of the NSC Directive.

The principal purpose of our index system was to retrieve information and it is highly efficient for this purpose. As modified, it also can be useful in the review and declassification process. We anticipate usefulness in these areas will increase as the years go by and as the data base of an ever-increasing proportion of the indexed documents includes the now required classification data elements.

The data index system, on the other hand, can be of little or no value in guarding against or tracing leaks of classified information, and this is especially true in this day of the copying machine. For this reason and because the development and maintenance of a computerized data index system is immensely expensive, I do not regard automation as a panacea which will solve all the problems of the government's classification program.

In concert with other departments, we have experienced a significant reduction in the numbers of authorized classifiers in each of the three classification levels. Our initial reduction was in excess of 40% and we have had a small reduction since that time. One factor which limits our freedom to reduce these numbers is that we are located in so many places abroad. In all such installations, even if there is only a one-man component, that individual must have authority to classify information. Nevertheless, it may be possible to make further reductions in the future and we intend to watch this closely.

Under the Executive Order, any person may request a review for declassification purposes of any sufficiently identified document which is at least 10 years old. We have had a number of requests for review and declassification. In 1973, 110 declassification requests were received, 50 of which were granted in full, 19 granted in part, 18 were denied, and action on 23 was pending at the end of that year.

A number of requests have originated with other government departments in connection with their consideration of declassification requests to those departments. Requests have come in from the press, from current and former employees, from professors, graduate students, high school and college students, and from individuals who have not revealed their occupation or position. Perhaps the greatest number of requests originated with other departments, with the press and scholars constituting the second and third largest categories.

Requests revealed an interest in World War II and OSS activities, in CIA involvement in Guatemala and Cuba, and probably the greatest number in Agency involvement in Vietnam. Denial of requests is based on the nature of the information as measured against the standards of the Executive Order. Documents have been denied which reveal a confidential intelligence source or agent. Information received from a foreign government with the understanding that it be kept in confidence has been denied. Documents have been denied which would disclose that an individual whose duties and career require that his CIA employment not be revealed, in fact is a CIA employee.

We have been able to approve the request for over 200 OSS documents made by a historical researcher who was writing a book on his experience as head of the OSS mission to Hanoi. A number of requests for documents concerning certain Indonesian matters from a Vassar professor doing research on U.S./Indonesia relations during the early 1960's have been approved. The French Broadcasting System requested the OSS film 'Mission to Yenan." This was made available to them, and to the public, by declassifying it and transferring it to the National Archives.

In the area of training, security briefings are given new employees covering the standards and procedures established by the Executive Order. In 1973 we had a series of meetings for 160 key personnel for the purpose of briefing these supervisory personnel on the requirements of the Order. We have not attempted to provide seminars and specific training for each person authorized to classify. Overseas assignments and job requirements would preclude this in any event, but the CIA regulation contains the requirements of the Executive Order and is readily available throughout the Agency. We also treat the security and records management features of the Executive Order in various Agency lectures and seminars, including our regular Mid-Career Executive Development Course and our Management and Services Reviews. Basic information pertaining to E.O. 11652, including the criteria for classifying information, is included in required reading which is circulated periodically to all personnel.

There may be some interest in the numbers of documents classified by the Agency, which we estimated at slightly more than 2 million in 1973. This figure does not seem large for an organization operating in many countries whose purpose and function are to obtain and keep secrets. Further, there are indications that classifications actions were significantly reduced in number from the previous year. A major reason for a great number of our classification decisions is that many of our classified documents are finished intelligence documents with input from various agencies. The finished intelligence document of course must be classified at the highest classification level of any of the information in the document.

To summarize, Mr. Chairman, my concern with respect to H.R. 12004 arises from my statutory charge to protect intelligence sources and methods. We are working to carry out the requirements and objectives of E.O. 11652 but its full implementation will take time and it is too soon to conclude that it is entirely satisfactory. And finally, Mr. Chairman, I am committed to the view that the intelligence investment is to be fully returned to the taxpayer in the form of quality intelligence for the government's policy makers and of by-product information for the public.